

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Patent Application of:)Attorney Docket No.: F-673

Felix Bator et al.)Group Art Unit: 3628

Serial No.: 10/626,850)Examiner: I. Borrisov

Filed: July 22, 2003)Date: December 8, 2008

Confirmation No.: 1866

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' BRIEF ON APPEAL

Sir:

This is an appeal pursuant to 35 U.S.C. § 134 and 37 C.F.R. §§ 1.191 et seq. from the final rejection of claims 1-3, 9 and 14 of the above-identified application mailed August 22, 2008. A Notice of Appeal was filed on November 21, 2008.

The Commissioner is hereby authorized to charge any additional fees that may be required or credit any overpayment to Deposit Account No. **16-1885**.

I. Real Party in Interest

The real party in interest in this appeal is Pitney Bowes Inc., a Delaware corporation, the assignee of this application.

II. Related Appeals and Interferences

There are no appeals or interferences known to Appellants, their legal representative, or the assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. Status of Claims

Claims 1-3, 9 and 14 are pending in this application and are on appeal. Claims 4-8 and 11-13 have been canceled. Claims 1-3, 9 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ananda (Letter to a Retail Systems Manager of United States Postal Service on February 21, 1997).

IV. Status of Amendments

There were no amendments to the claims filed subsequent to the Office Action dated August 22, 2008. Therefore, the claims as set forth in Appendix A to this brief are those as set forth before the final rejection.

V. Summary of Claimed Subject Matter

This summary and references to specific page and line numbers, figures and reference characters is not intended to supplant or limit the description of the claimed subject matter as provided in the claims as recited in Appendix A, as understood in light of the entire specification.

Independent claim 1 is directed to a method for a vendor to dispense postage over a network to a remote personal computer that comprises “obtaining, by the vendor, a meter license from a postal service, said meter license being associated with a meter account assigned to the vendor, said meter account being maintained at a data center;” (see Fig. 3, item 100 and corresponding description in paragraph [0032], Fig. 2, item 30 and corresponding description in paragraph [0031], “receiving, via the network, a transaction request for postage from a customer using the remote personal computer, the customer not having a meter license from the postal service, said transaction request including information from the customer, said information corresponding to the transaction requested and payment method;” (see Fig. 3 item 112, and corresponding description in paragraph [0032], “processing the requested transaction by requesting the data center to create evidence of postage payment and to account for the created evidence of postage payment in the meter account assigned to the vendor;” (see Fig. 3, item 116 and corresponding description in paragraph [0032], “effecting payment for the transaction based on the information received from the customer;” (see Fig. 3, item 116 and corresponding description in paragraph [0032], “receiving the evidence of postage payment created by the data center;” (see Fig. 3, item 116 and corresponding description in paragraph [0032], “and sending the evidence of postage payment to the remote personal computer for use by the customer, wherein the customer can obtain postage from the vendor without having a meter license from the postal service.” (See Fig. 3, item 120 and corresponding description in paragraph [0032]).

Independent claim 14 is directed to a system for dispensing postage over the Internet to a remote personal computer for printing that comprises “a data center accessible over the Internet;” (see Figs. 1 and 2, item 30 and corresponding description in paragraphs [0024] and [0031], “means at the data center for maintaining at least one metering account for a vendor, the at least one metering account being associated with a meter license from a postal service obtained by the vendor;” (see Fig. 1, item 36 and corresponding description in paragraph [0027], “means at the

data center for receiving over the Internet a request for postage, the request being initiated by a customer of the vendor using the remote personal computer, the customer not having a meter license from the postal service;" (see Fig. 1, item 32 and corresponding description in paragraph [0027], "means at the data center for generating evidence of postage payment in response to the request for postage;" (see Fig. 1, item 34 and corresponding description in paragraph [0027], and "means at the data center for accounting for the generated evidence of postage payment in the metering account associated with the license obtained by the vendor, wherein the customer can obtain evidence of postage payment from the vendor without having a meter license from the postal service." (See Fig. 1, item 36 and corresponding description in paragraph [0027]).

Additional features of the invention are discussed below in the Argument section of this Brief.

VI. Grounds of Rejection to be Reviewed on Appeal

A. Whether the subject matter of claims 1-3, 9 and 14 is unpatentable over Ananda (Letter to a Retail Systems Manager of United States Postal Service on February 21, 1997).

VII. Argument

As discussed in detail below, the final rejection of claims 1-3, 9 and 14 is devoid of any factual or legal premise that supports the position of unpatentability. It is respectfully submitted that the rejection does not even meet the threshold burden of presenting a prima facie case of unpatentability. For this reason alone, Appellants are entitled to grant of a patent. In re Oetiker, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992).

A. The subject matter defined in claims 1-3, 9 and 14 is not obvious over Ananda (Letter to a Retail Systems Manager of United States Postal Service on February 21, 1997).

(i) The subject matter defined in claims 1-3 and 9 is not obvious over Ananda.

Claim 1 recites a method for a vendor to dispense postage over a network to a remote personal computer that comprises “obtaining, by the vendor, a meter license from a postal service, said meter license being associated with a meter account assigned to the vendor, said meter account being maintained at a data center; receiving, via the network, a transaction request for postage from a customer using the remote personal computer, the customer not having a meter license from the postal service, said transaction request including information from the customer, said information corresponding to the transaction requested and payment method; processing the requested transaction by requesting the data center to create evidence of postage payment and to account for the created evidence of postage payment in the meter account assigned to the vendor; effecting payment for the transaction based on the information received from the customer; receiving the evidence of postage payment created by the data center; and sending the evidence of postage payment to the remote personal computer for use by the customer, where the customer can obtain postage from the vendor without having a meter license from the postal service.” Thus, a mailer (customer) can print postage utilizing a meter account assigned to the vendor, and therefore the customer does not require a separate meter license or meter account.

The Ananda letter describes a PC postage product, called StampMaker, which allows a postal customer to create stamps at the home or office using a personal computer, modem, and printer. A software program allows the user to print stamps. The Ananda letter is a Letter of Intent to submit an Information Based Indicia Program (IBIP) evaluation product (as specifically noted in the letter from W. Wilkerson to Ananda dated April 23, 1997, (copy provided with the Office Action) confirming receipt of the Ananda letter of February 21.

The Office Action has not provided any indication as to where in the Ananda letter there is any disclosure, teaching or suggestion of the vendor obtaining a meter license from the postal service, the meter license being associated with a meter account assigned to the vendor as in the present invention. At no point in the Ananda letter is there any disclosure, teaching or

suggestion of the vendor obtaining a meter license from the postal service, the meter license being associated with a meter account assigned to the vendor as in the present invention. The Office Action contends that StampMaker allows the postal customer to create stamps at the home or office using a personal computer, thereby indicating obtaining the license by the vendor from the postal service. (Office Action, page 4). There is nothing in the Ananda letter that describes or discloses this, and the Office Action fails to consider that, as described below, it is the postal customer that obtains the meter license from the postal service and not the vendor.

The Office Action has also not provided any indication as to where in the Ananda letter there is any disclosure, teaching or suggestion of processing the requested transaction by requesting the data center to create evidence of postage payment and to account for the created evidence of postage payment in the meter account assigned to the vendor as in the present invention. At no point in the Ananda letter is there any disclosure, teaching or suggestion of processing the requested transaction by requesting the data center to create evidence of postage payment and to account for the created evidence of postage payment in the meter account assigned to the vendor as in the present invention. The Office Action contends that in Ananda every time the user wants to print a stamp, the client software running on the user system will verify with the server software running on the vendor system that the user is an authorized user and also verify that there is enough prepaid postage available for the user to print the stamps. (Office Action, page 4). The Office Action fails to consider that the prepaid postage is maintained in the user's meter account, and not the meter account assigned to the vendor.

As noted above, the Ananda letter is a Letter of Intent to submit an Information Based Indicia Program (IBIP) evaluation product. Thus, the product generally described in the Ananda letter is intended to comply with the USPS IBIP specifications, and more specifically the June 1996 USPS IBIP Indicium Specification. As specifically stated under the heading "Product Concept Narrative," in the Ananda letter, "the 'stamp' generated by StampMaker will take the form of a Bar Code that represents client information, a unique 'stamp' number, and other information specified in the June 1996 USPS IBIP Indicium Specification." This Indicium Specification, which was cited in an Information Disclosure Statement and provided to the USPTO, specifies the requirements for indicium applied by customers using either a computer-based or a meter-based approach. As noted in Table 3-1 of the Indicium Specification, the

indicium is required to include the License ID in both the computer-based bar code and the meter-based bar code. On page 3-2 of the Indicium Specification, the License ID is defined as the data element that represents “the customer’s unique license identification number.” Thus, if the system generally described in the Ananda letter generates a stamp that represents the information specified in the June 1996 USPS IBIP Indicium Specification, the customer is required to obtain a license from the postal service and this customer license number is included in the indicium. This is in direct contrast with the present invention, in which a customer can print postage without having a meter license or meter account assigned to the customer, but instead utilizes a meter account assigned to the postage meter vendor.

There is no disclosure, teaching or suggestion in the Ananda letter of a meter license being associated with a meter account assigned to the vendor. Furthermore, there is no disclosure, teaching or suggestion in the Ananda letter of dispensing postage in response to a transaction request received by a postage meter vendor over the Internet from a customer that includes “processing the requested transaction by creating evidence of postage payment” and “accounting for the created evidence of postage payment in the meter account assigned to the postage meter vendor” as is recited in claim 1.

For at least the above reasons, Appellants respectfully submit that the final rejection of claim 1 is in error and should be reversed.

Each of claims 3, 4 and 9 is dependent upon claim 1, and therefore includes all of the limitations of claim 1. For the same reasons given above with respect to claim 1, Appellants respectfully submit that the final rejection as to claims 3, 4 and 9 is in error and should be reversed.

(ii) The subject matter defined in claim 14 is not obvious over Ananda.

Claim 14 is directed to a system for dispensing postage over the Internet to a remote personal computer for printing that comprises “a data center accessible over the Internet; means at the data center for maintaining at least one metering account for a vendor, the at least one metering account being associated with a meter license from a postal service obtained by the vendor; means at the data center for receiving over the Internet a request for postage, the request

being initiated by a customer of the vendor using the remote personal computer, the customer not having a meter license from the postal service; means at the data center for generating evidence of postage payment in response to the request for postage; and means at the data center for accounting for the generated evidence of postage payment in the metering account associated with the license obtained by the vendor, wherein the customer can obtain evidence of postage payment from the vendor without having a meter license from the postal service.

The Ananda letter describes a PC postage product, called StampMaker, which allows a postal customer to create stamps at the home or office using a personal computer, modem, and printer. A software program allows the user to print stamps. The Ananda letter is a Letter of Intent to submit an Information Based Indicia Program (IBIP) evaluation product (as specifically noted in the letter from W. Wilkerson to Ananda dated April 23, 1997, (copy provided with the Office Action) confirming receipt of the Ananda letter of February 21.

The Office Action has not provided any indication as to where in the Ananda letter there is any disclosure, teaching or suggestion of a means at the data for maintaining at least one metering account for a vendor, the at least one metering account being associated with a meter license from a postal service obtained by the vendor as in the present invention. At no point in the Ananda letter is there any disclosure, teaching or suggestion of the vendor obtaining a meter license from the postal service, the meter license being associated with a meter account assigned to the vendor as in the present invention. The Office Action contends that StampMaker allows the postal customer to create stamps at the home or office using a personal computer, thereby indicating obtaining the license by the vendor from the postal service. (Office Action, page 4). There is nothing in the Ananda letter that describes or discloses this, and the Office Action fails to consider that, as described below, it is the postal customer that obtains the meter license from the postal service and not the vendor.

The Office Action has also not provided any indication as to where in the Ananda letter there is any disclosure, teaching or suggestion of a means at the data center for accounting for the generated evidence of postage payment in the metering account associated with the license obtained by the vendor, wherein the customer can obtain evidence of postage payment from the vendor without having a meter license from the postal service, as in the present invention. At no

point in the Ananda letter is there any disclosure, teaching or suggestion of processing the requested transaction by requesting the data center to create evidence of postage payment and to account for the created evidence of postage payment in the meter account assigned to the vendor as in the present invention. The Office Action contends that in Ananda every time the user wants to print a stamp, the client software running on the user system will verify with the server software running on the vendor system that the user is an authorized user and also verify that there is enough prepaid postage available for the user to print the stamps. (Office Action, page 4). The Office Action fails to consider that the prepaid postage is maintained in the user's meter account, and not the meter account assigned to the vendor.

As noted above, the Ananda letter is a Letter of Intent to submit an Information Based Indicia Program (IBIP) evaluation product. Thus, the product generally described in the Ananda letter is intended to comply with the USPS IBIP specifications, and more specifically the June 1996 USPS IBIP Indicium Specification. As specifically stated under the heading "Product Concept Narrative," in the Ananda letter, "the 'stamp' generated by StampMaker will take the form of a Bar Code that represents client information, a unique 'stamp' number, and other information specified in the June 1996 USPS IBIP Indicium Specification." This Indicium Specification, which was cited in an Information Disclosure Statement and provided to the USPTO, specifies the requirements for indicium applied by customers using either a computer-based or a meter-based approach. As noted in Table 3-1 of the Indicium Specification, the indicium is required to include the License ID in both the computer-based bar code and the meter-based bar code. On page 3-2 of the Indicium Specification, the License ID is defined as the data element that represents "the customer's unique license identification number." Thus, if the system generally described in the Ananda letter generates a stamp that represents the information specified in the June 1996 USPS IBIP Indicium Specification, the customer is required to obtain a license from the postal service and this customer license number is included in the indicium. This is in direct contrast with the present invention, in which a customer can print postage without having a meter license or meter account assigned to the customer, but instead utilizes a meter account assigned to the postage meter vendor.

There is no disclosure, teaching or suggestion in the Ananda letter of a means at the data center for maintaining at least one metering account for a vendor, the at least one metering

account being associated with a meter license from a postal service obtained by the vendor. Furthermore, there is no disclosure, teaching or suggestion in the Ananda letter of means at the data center for accounting for the generated evidence of postage payment in the metering account associated with the license obtained by the vendor, wherein the customer can obtain evidence of postage payment from the vendor without having a meter license from the postal service as is recited in claim 14.

For at least the above reasons, Appellants respectfully submit that the final rejection of claim 14 is in error and should be reversed.

VIII. Conclusion

In Conclusion, Appellants respectfully submit that the final rejection of claims 1-3, 9 and 14 is in error for at least the reasons given above and should, therefore, be reversed.

Respectfully submitted,

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Attachments - Appendix A – Claims Appendix (2 pages)
Appendix B – Evidence Appendix (1 page)
Appendix C – Related Proceedings Appendix (1 page)

APPENDIX A – Claims Appendix

1. A method for a vendor to dispense postage over a network to a remote personal computer, the method comprising:

obtaining, by the vendor, a meter license from a postal service, said meter license being associated with a meter account assigned to the vendor, said meter account being maintained at a data center;

receiving, via the network, a transaction request for postage from a customer using the remote personal computer, the customer not having a meter license from the postal service, said transaction request including information from the customer, said information corresponding to the transaction requested and payment method;

processing the requested transaction by requesting the data center to create evidence of postage payment and to account for the created evidence of postage payment in the meter account assigned to the vendor;

effecting payment for the transaction based on the information received from the customer;

receiving the evidence of postage payment created by the data center; and

sending the evidence of postage payment to the remote personal computer for use by the customer,

wherein the customer can obtain postage from the vendor without having a meter license from the postal service.

2. The method of claim 1, further comprising:

determining an origin of deposit postal code for the requested transaction.

3. The method of claim 1, wherein the information from the customer includes a username, password and credit card information whereby a personal account is established for subsequent transactions.

9. The method of claim 2, wherein the origin of deposit postal code is included in the information from the customer.

14. A system for dispensing postage over the Internet to a remote personal computer for printing, the system comprising:

a data center accessible over the Internet;

means at the data center for maintaining at least one metering account for a vendor, the at least one metering account being associated with a meter license from a postal service obtained by the vendor;

means at the data center for receiving over the Internet a request for postage, the request being initiated by a customer of the vendor using the remote personal computer, the customer not having a meter license from the postal service;

means at the data center for generating evidence of postage payment in response to the request for postage; and

means at the data center for accounting for the generated evidence of postage payment in the metering account associated with the license obtained by the vendor,

wherein the customer can obtain evidence of postage payment from the vendor without having a meter license from the postal service.

APPENDIX B – EVIDENCE APPENDIX

There is no evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 or any other evidence entered by the examiner and relied upon by Appellants in the appeal.

APPENDIX C – RELATED PROCEEDINGS APPENDIX

There are no appeals or interferences are known to Appellants, their legal representative, or the assignee which may be directly related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.